



December 14, 2000

Ms. Kristi LaRoe
Assistant District Attorney
Tarrant County
401 West Belknap
Fort Worth, Texas 76196-0201

OR2000-4696

Dear Ms. LaRoe:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 142148.

The Tarrant County District Attorney's Office (the "district attorney's office") received a request for information regarding persons convicted of felonies and misdemeanors including the defendant's name, date of birth, race, sex, sentence date, offense description, case number, court jurisdiction, and sentence. The requestor asks for the data either as a Microsoft Access 97 file, or as a fixed column ASCII file if possible but will accept the information in the most convenient format. You state that the district attorney's office has agreed to provide the requested information in the requested format but that the Tarrant County District Clerk (the "district clerk") objects to the release of the requested information in the requested format. We have received comments from the district clerk and an attorney advocating that the requested information constitutes records of the judiciary which are not subject to the Public Information Act (the "Act"). We have considered the submitted arguments.

The district attorney's office claims that the requested information is "public information" which is subject to the Act. Section 552.002 provides, in pertinent part:

(a) In this chapter, "public information" means information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body; or

(2) for a governmental body and the governmental body owns the information or has a right of access to it.

Gov't Code § 552.002(a). The district attorney states that the requested information exists in paper records in individual case files and in a database housed on the county mainframe computer which is accessible from computer terminals in the district attorney's office. The district attorney's office requested that county computer technicians retrieve the requested information from the database and format the information as requested by the requestor.

In 1995, the district clerk, county clerk, district attorney's office, and the sheriff's office entered into an agreement to provide dial-in access for the public to the database of court records. *See* Loc. Gov't Code § 191.008(a) (providing authority to establish computerized information system). The database may also be accessed by public terminals. The district attorney's office has access to the database just like any other member of the public. In order for the database to be considered public information under the Act, the database must be collected, assembled, or maintained by or for the district attorney's office. After reviewing the submitted arguments, we conclude that the database is not collected, assembled, or maintained by or for the district attorney's office. Although we acknowledge that the district attorney's office has access to the database, we do not believe that the database is maintained for the district attorney's office.

Further, the district clerk argues that the court records in the database are judicial records which are not subject to the Act. Section 552.0035(a) of the Government Code provides that access to information collected, assembled, or maintained by or for the judiciary is governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules. Therefore, we agree that the court records in the database are records of the judiciary and, therefore, not subject to the Act. Gov't Code § 552.0035(a). Because the database is not "public information" under the Act and the judicial records are not subject to the Act, we conclude that the district attorney's office may retrieve the requested information from paper records in its individual case files but not from the database.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jennifer Bialek
Assistant Attorney General
Open Records Division

JHB\er

Ref: ID# 142148

cc: Mr. William J. Bollinger, President
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The Honorable Chris Harris
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